DOCUMENT RESUME

ED 169 181 UD 019 280

AUTHOR Castellanos, Diego
TITLE Bilingual Education Versus School Desegregation: Reconciling the Conflict.
PUB DATE [79]
NOTE 17p.

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Bilingual Education; *Community Attitudes; Elementary Secondary Education; Federal Regulation; Integration Litigation; Minority Group Children; Multicultural Education; Program Evaluation; Puerto Ricans; *School Integration; *School Segregation; *Spanish Speaking

ABSTRACT

Three phenomena are examined in this paper: (1) the segregation inherent in the early stages of bilingual instruction; (2) the Hispanic view of school desegregation; (3) the treatment of Hispanic children by desegregating school systems. Court rulings, Federal guidelines, and other legal mandates concerning the segregation of national origin students are discussed. (Author/EB)

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APR 13 1979

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BILINGUAL EDUCATION VERSUS SCHOOL DESEGREGATION: RECONCILING THE CONFLICT

By Dr. Diego Castellanos
Assistant Director
Office of Equal Educational Opportunity
New Jersey State Department of Education

Three phenomena will be examined in this article: the segregation inherent in the early stages of bilingual instruction; the Hispanic view of school desegregation; and the treatment of Hispanic children by desegregating school systems. The article concludes with a discussion of court rulings, federal guidelines, and other legal mandates concerning the segregation of national origin students.

Segregation in Bilingual Programs

Periods of linguistic separation or grouping are unavoidable in bilingual education. One of the tenets in this mode of instruction is that pupils are taught in their native language. Obviously, if English-speaking and Spanish-speaking pupils are mixed, and the class is taught in Spanish, the English speakers in the class would be subjected to the same problems under which Spanish-speaking students have been laboring and which educators are trying to correct by means of bilingual instruction.

Another integral component of bilingual education is the teaching of a second language. Again, if the second group in a desegregated classroom already speaks the

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language being taught to the first group, its presence in the classroom becomes unnecessary—even ludicrous.

The problem of segregation arises, however, when the pupils are kept apart in self-contained classrooms for the entire day and, furthermore, when their participation in a bilingual program is extended beyond the time necessary, causing the program to become a track in and of itself. Those framing the New Jersey Bilingual Education Act sought to guard against the potential of excessive segregation by limiting the children's participation in bilingual programs to three years and insisting that children be mixed in non-academic areas. The Act states, "In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not limited to art, music, and physical education, pupils of limited English-speaking ability shall participate fully with English-speaking pupils in the regular classes provided for such subjects." The law further states, "Programs in bilingual education shall be located in the regular public schools of the district rather than in separate facilities."[1] Similar requirements were mandated by Title VII ESEA, and, naturally, by ESAA.

Many critics of bilingual education contend that the movement is often more political and economic than educational and predict that Spanish-surnamed children will be

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[1]N.J.P.L. 1974, Chapter 197.

recycled into bilingual programs after the three year state requirement in order to perpetuate employment for bilingual teachers. One of the most vocal of these critics is Albert Shanker, President of the New York City local of the American Federation of Teachers and Vice President of the New York State United Teachers. Shanker, himself a non English-speaking child when he entered school, favors bilingual education in order to preserve the child's native language and provide a transition into ordinary classroom instruction. However, he has repeatedly objected to the bicultural component, charging that there is a quota system implicit in the demands for bicultural education. More to the point, some established teachers feel their positions threatened and Shanker believes that much of the bilingual movement has more to do with minority hiring than with education. "I don't cling to the idea that with every new wave of immigrants you have to throw out the teachers who represent the previous group of immigrants," Shanker said. "There are still too few Puerto Rican graduates to implement a bicultural program . . . and it would be a terrible mistake to drop the requirement for certification of bilingual teachers. It would be like saying drop the requirements for bilingual doctors or lawyers. It would automatically mark the bilingual program as inferior."[2] Other critics of the

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[2]Lawrence Wright, "The Bilingual Education Movement at the Crossroads," Phi Delta Kappan (November 1973), p. 186.

cultural component of bilingual education are concerned that it will encourage separatism long after the children have learned English. "We fully recognize the benefits of cultural pluralism," said James Ward of the American Federation of Teachers. "But we must be sure that the central effort is to bring students into the mainstream of American life."[3]

While a few educators question the merits of bilingual education on pedagogical grounds, the bulk of the opposition is motivated by fears that encouraging ethnic minorities to assert their differences and their special identities, in language use and distinctive cultural characteristics, tends to foment political divisiveness rather than to strengthen a feeling of national unity. Quoting the Canadian linguistic/political discord, a New York Times editorial warned against "a misguided linguistic separatism that, while it may seem to promise its advocates limited political and ideological power, can only have the effect of condemning to permanent economic and social disadvantage those who cut themselves off from the majority culture."[4] In a letter of rebuttal, Professor Joshua Fishman of Yeshiva University pointed out that "ethnocultural divisiveness . . . is far too deeply imbedded in a pervasive socio-economic matrix to be 'caused' by any kind of education; and bilingual education per se is unfailingly unifying rather than

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[3]"The Three Rs in 70 Tongues," Time (February 13, 1978), p. 65.

[4]Editorial, New York Times, November 22, 1976.

divisive. The hallmark of all bilingual education (including its compensatory U.S.A. variant) is that it includes a unifying supra-ethnic language of wider communication (in our case: English)."[5]

On the other hand, the Anglo conformity aspect of the melting pot kept so many ethnics on the periphery of society that it could hardly be called unifying. Advocates of cultural pluralism remind us that the melting pot notion was very selective and, therefore, divisive. By acknowledging the differences that distinguish everyone from everyone else, cultural pluralism places each culture in an equal, non-exclusive stratum. Furthermore, pluralists agree, recognizing the worth of every ethnic/cultural contribution to society is far more conducive to a participatory democracy.

Pupils in segregated schools tend to have a naive misconception of the cultural diversity of the real world. After school, many are shocked to find out that not everybody is bilingual or Black or white as the case may be. And the schools did not prepare them to deal with diversity—whether cultural, linguistic, economic, or attitudinal. The harmful effects of segregated schooling have been recognized and denounced by many social as well as legal pronouncements during the past three decades.[6]

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[5]The Linguistic Reporter, January 1977, n.p.

[6]See U.S., Commission on Civil Rights, Racial Isolation in the Public Schools, Volume 2 (Washington, D. C.: Government Printing Office, 1967).

Initially, federal guidelines emphasized the desirability of including Anglo pupils in all bilingual classes with those from other ethnic groups. However, a great many schools where bilingual projects have been established are segregated; with few English-speaking pupils on their rosters. If Anglo children do not exist, they can hardly be placed in the bilingual classes. There has been some busing of children to schools where bilingual programs are in operation, but in most cases this is done to transport pupils who do not speak English and urgently need either intensive ESL or bilingual instruction, rather than to place Anglo children in the programs.[7]

Many progressive educational leaders have viewed the segregation inherent in bilingual programs with a great deal of alarm. Alfredo Mathew cautioned in 1977: "While bilingualism, from a political point of view, is meant to foster the Puerto Rican/Hispanic identity and consequently encourages concentrations of Hispanics to stay together and not be integrated, one also has to be wary that it not become so insular and in-grown that it fosters a type of apartheid that will generate animosities with other groups, such as Blacks, in the competition for scarce resources, and further alienate the Hispanic from the larger society. The broadening of the bilingual movement beyond Spanish to include

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[7]See Francis Williard von Maltitz, Learning in Two Languages: Bilingual-Bicultural Education in the United States (New York: McGraw-Hill Book Co., 1975), p. 8.

Italian, Greek, French (Haitian) has lessened the potential friction of an exclusively Hispanic movement. Multiculturalism has softened the inherent potential separatism of bilingualism."[8]

Hispanic View of School Desegregation

The segregation occasioned by bilingual instruction is exacerbated by the fact that, since racism has not been institutionalized in places like Puerto Rico, Mexico, or Cuba, Spanish-speaking people do not see the desegregation issue as a priority at all. They do not mind their children going to segregated schools. In fact, most feel more comfortable among other Latinos who share their common language, culture, and values. All too often, however, while all-Spanish-speaking or all-minority schools shield them from the hostile environment of desegregated schools where the dominant student body may be white Anglo, ghetto schools are depriving these children of an equal educational opportunity. Dilapidated facilities, inferior materials, and poorly trained staff have been linked by many observers to schools serving minority group students.[9]

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[8]Alfredo Mathew, Jr., "What Are the Perceived and Particular Problems and Needs of Students Whose Background is Hispanic in the Desegregation Process?" paper presented at the National Conference on Desegregation and Education Concerns of the Hispanic Community, Washington, D. C., June 26-28, 1977.

[9]Office of Equal Educational Opportunity, New Jersey State Department of Education. See also Coleman, Equality of Educational Opportunity, pp. 67-165.

Joseph Monserrat, who later became President of the New York City Board of Education, said in a 1960 article that Puerto Ricans did not and could not perceive themselves as a minority group because the term was alien to them and that Puerto Ricans, although the victims of discrimination on the mainland, would not eagerly subscribe to integration programs that would require that they leave their barrios or neighborhoods.[10] That sentiment was echoed seventeen years later by Mathew--although not agreeing with it. He added, "Puerto Ricans suffer from the same ambivalence toward integration that afflicts Blacks. While on the one hand, we can accept intellectually the need to improve educational opportunity by breaking out of the ghetto and joining the mainstream (which would be the effect of integration) we also are wary of the loss of power—political and economic—that would result from a diffusion of the Puerto Rican community."[11]

Treatment of Hispanic Children in Desegregating Districts

Boards of education required to desegregate their schools have dealt with the presence of Hispanic pupils in a variety of ways:

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[10]Joseph Monserrat, "School Integration: A Puerto Rican View," Integrating the Urban School (New York: Columbia University, Bureau of Publications, 1963), p. 6.

[11]Mathew.

1. Most school systems have viewed the desegregation process as a Black and white issue and have completely ignored the presence of Hispanic pupils. These pupils will end up wherever the district's housing patterns place them without regard to ethnic balance or isolation.

2. Many districts will use the presence of Hispanic pupils to help them comply with a desegregation mandate without really desegregating their schools. This has been done in one of two ways.

a. Classifying all Hispanic pupils as white, some superintendents will "desegregate" their schools by combining Hispanics with Blacks or Asians, thereby integrating two minority groups while the Anglo school population continues relatively segregated. This process, of course, perpetuates the unequal treatment of minority children.

b. Classifying all Hispanic pupils as "minority," other districts have been known to mix Hispanic pupils who are obviously white with Anglo pupils, thereby maintaining all white schools while Black children continue in isolation.

3. Other districts, while taking into consideration Hispanic pupils in their pupil assignment formula, do not take into consideration the special educational needs of these students in a desegregated setting. The modification of curriculum and staff training components of their desegregation plans usually will consider only the needs of

Black and white children in their new environment. When a school district is desegregated, teachers whose only view of Hispanic youngsters may have been through either a rolled-up car window or "West Side Story," come face to face for the first time with these children and eventually their parents. Likewise, non-English dominant children suddenly find themselves in a totally alien environment where their only means of communication is useless and where they become highly visible and uncomfortable. The deleterious effect of such a situation has been recognized by some leading psychologists. They explain that when the anxiety level is high, the cognitive process is suspended and, therefore, education cannot begin until the threshold problem of communication is reconciled.[12]

The Legal Mandate

The first court case to hold that the principles of Brown[13] apply to Hispanics as well as Blacks was Cisneros v. Corpus Christi[14] in 1970. It held that Hispanics are an identifiable ethnic minority for purposes of desegregation and for designing a remedy that could include bilingual education. In other words, the degree of segregation in any

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[12]Frank Voci, "Humanizing Education," paper presented at the Seventh Annual International Bilingual/Bicultural Education Conference, San Juan, April 24-28, 1978.

[13]Brown v. Board of Education of Topeka; Supreme Court of the United States, 347 U.S. 583 (1954).

[14]324 F. Supp. 599 (S.D. Texas, 1970).

given school can no longer depend on the ratio of whites to the combined number of identified minority pupils (Black and Hispanic) in that school.

This concept of tri-ethnic desegregation has been followed in subsequent court cases. One court stated: "No remedy for the dual system can be acceptable if it operates to deprive members of a third ethnic group of the benefits of equal educational opportunity. To exclude Mexican Americans from the benefits of tripartite integration in the very act of effecting a unitary system would be to provide Blacks with the benefit of integration while denying it to another . . . group on the basis of ethnic origin."[15] In Keyes v. Denver, the Tenth Circuit Court of Appeals further ruled that maintaining a segregated school even for purposes of bilingual instruction violates the constitution. The decision stated: . . . Bilingual education . . . is not a substitute for desegregation. Although bilingual instruction may be required to prevent the isolation of minority students in a predominantly Anglo school system, such instruction must be subordinate to a plan of desegregation."[16]

Recent cases, besides affirming Hispanics as a

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[15]See Ross v. Eckels 468 F. 2d 649 (5th Cir., 1972); United States v. Texas Education Agency (Austin I) 467F. 2d 848, 870 (5th Cir. en banc, 1972); and Evans v. Buchanan 416 F. Supp. 328, 349 (D. Del. 1976).

[16]Keyes v. School District #1, Denver, Colorado, 413 U.S. 189, 13 S. Ct. 2686, 37 L. Ed. 2d 548 (June 21, 1973); 380 F. Supp. 673, 692, 694-696 (D. Colo., 1974), aff'd in part rev'd in part, 521 F. 2d 465 (10th Cir., 1975), Cert. denied 423 U.S. 1066 (1976).

cognizable national origin group, have also given Hispanics the right to intervene or become formal participants in pending litigation between Blacks and the school system.[17]

In Evans v. Buchanan, a desegregation case involving Black plaintiffs and Hispanic intervenors, in Wilmington, Delaware, the court prohibited the reduction of existing bilingual programs that served only 375 Hispanic students, less than 1 percent of the total pupil enrollment.[18] While Hispanic students found to need bilingual instruction numbered over 3,600 in Boston, the plan adopted by the court there also required bilingual programs for other less numerous linguistic minority students: 519 Chinese, 370 Italians, 190 French Haitian, 160 Greek, and 60 Portuguese.[19] In U.S. v. Texas (San Felipe Del Río) the court ordered a comprehensive bilingual education program for Hispanics.[20]

Since the enactment of the Equal Educational Opportunity Act of 1974, the proscription of Lau can no longer be circumvented by school districts spurning federal or state funds. In fact, the failure of a school district to accept

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[17]See U.S. v. Waterbury (Ct.) Board of Education C.A. No. 13, 465 (Sept. 9, 1976); Morgan v. Kerrigan 401 F. Supp. 216 (C. Mass. 1975); and Evans v. Buchanan 416 F. Supp. 328 (D. Del. 1976).

[18]Evans v. Buchanan 416 F. Supp. 328 (D. Del. 1976).

[19]Morgan v. Kerrigan 401 F. Supp. 216 (C. Mass. 1975).

[20]U.S. v. Texas, 342 F. Supp. 24, 29-30 (E.D. Tex. 1970) aff'd, 466 F. 2d518 (5th Cir. 1972).

state funds was noted by the court in Serna v. Portales,[21] which resulted in court-mandated bilingual programs.

ESAA regulations[22] state that schools which assign students to or within classes in a manner resulting "in the separation of minority group from non-minority group children for a substantial portion of the school day" are ineligible for ESAA funding. These regulations interpret "substantial" separation as separation "for more than 25 percent of the school day classroom periods." Thus, where the separation lasts for more than 25 percent of the day, the presumption is raised that classroom or tracking assignments are impermissibly based on race, color, or national origin.

Exceptions

Bona fide ability groupings, however, are exempted from this presumption and prohibition. A bona fide ability grouping must meet four requirements.

1. Placement in the group must be based on educationally relevant, nondiscriminatory, objective standards of measurement.

2. The grouping must be maintained during the school day for only as long as necessary.

3. It must be designed to meet the students' special needs and to improve academic achievement and performance

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[21] 351 F. Supp. 1279 (10th Cir. 1974).

[22] 45 C.F.R. 185.43(c).

through specially developed curricula taught by specially trained instructional personnel.

4. The grouping must be shown through objective testing to be educationally beneficial.[23]

In other words, if bilingual programs for students with limited English-speaking abilities result in ethnic separation within schools, prevailing case authority and federal regulations may sanction them as bona fide ability groupings, provided acceptable justification can be offered. Thus, denying bilingual education on grounds that it violates desegregation mandates is no longer permissible.

These bona fide exceptions to desegregation apply not only to pupil assignment but to hiring practices as well. The "role model" value of Hispanic faculty in predominantly Hispanic schools and the need of Hispanic students to be counseled by sympathetic members of their own background was recognized by Congress in the enactment of the Equal Educational Opportunity Act of 1974. While containing a general ban against discrimination in teacher hiring and assignment, it excepted from this ban staffing to fulfill the mandate to overcome the language barrier.

Many educators believe that there is no need for prolonged segregation in bilingual programs. Dr. José Cárdenas of San Antonio offers a third alternative involving a form of individualized instruction utilizing flexible grouping

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[23] Ibid.

techniques, changing classes during the school day, staff differentiation, and tailoring of resource materials.[24] The key to Cárdenas' solution is found in two points:

1. We must change our perceptions of the classroom teacher from an instructor role to that of facilitator of learning.

2. Schools which perceive themselves to be ill-prepared for new learning arrangements must be willing to invest in the development of their technical and organizational capabilities.

Dr. Josué González argues that school desegregation and bilingual education need not be mutually exclusive. He explains that both strategies are intended to equalize educational opportunity for underachieving minorities. González suggests:

> Blacks and Latinos alike (must) continue to be vigilant so that the needs and aspirations of one group are not hurled in the path of the other as an impediment to change. My guess is that there are still people around who would prefer to see us deadlocked over spurious conflicts rather than see us united and promoting each other's causes. Let's try very hard to prevent that from happening.
> . . .
> It seems to me that for the most part, Black educators are tending to specialize in desegregation issues while Latino (professionals) are specializing in Lau-related matters. This is very much to be expected. I believe, however, that we are at the point where we can afford to have some

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[24] José A. Cárdenas, "Bilingual Education, Segregation, and a Third Alternative," Inequality in Education, 19 (February 1975), n.p.

> cross-fertilization. We need to develop mechanisms for closer collaboration in our respective tasks. But we also need to become more interpendent. We can accomplish this at least partially by developing a cadre of bilingual "experts" among Black educators and some expertise about desegregation among Latino professionals.[25]

Segregation of national origin minority pupils—whether in bilingual programs or not—is a serious problem which warrants further investigation and which requires urgent solutions.

[25]Josué González, "Selected Issues and Concerns of Hispanic Education Within the Context of Brown and Lau: Según se ven desde acá . . .," paper presented at the National Conference on Desegregation and Education Concerns of the Hispanic Community, Washington, D. C., June 26-28, 1977.